

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: September 1, 1992

FEE DECISIONS OF THE MANAGING
DIRECTOR AVAILABLE TO THE PUBLIC

92-50

ORIGINAL
FILE

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. On a monthly basis, a public notice is released and the entire text of these fee decisions is published in the FCC Record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Bakcor Broadcasting, Inc. - Petition for reconsideration of an application for a radio station at Abilene, Texas - Reinstated (June 26, 1992).

Broadcast Properties of La Crosse, Inc. - Request for refund of a hearing fee at La Crosse, Wisconsin - Granted (August 20, 1992).

Clemson Broadcasting, Inc. - Request for refund of hearing fee for a new FM radio broadcast station at Clemson, South Carolina - Granted (August 10, 1992).

Golden Corners Broadcasting, Inc. - Request for refund of hearing fee for a new FM station at Clemson, South Carolina - Granted (August 10, 1992).

Idas, Sam - Request for refund of hearing fee for a new commercial FM station at Thousand Palms, California - Granted (August 10, 1992).

Orchon Broadcasting Company - Request for refund of hearing fee for a new FM station at Greenville, Georgia - Granted (August 10, 1992).

Orkus, Judith O. and Larry R. - Request for refund of a hearing fee for a new FM radio broadcast station at Port Matilda, Pennsylvania - Denied (August 20, 1992).

P. V. R. Communications, L.P. - Request for refund of hearing fee for a new FM radio broadcast station at Martinez, Georgia - Granted (July 30, 1992).

Rochlis, Jeffrey - Request for refund of hearing fee for a new FM station at Thousand Palms, California - Granted (August 10, 1992).

WSMK - Request for refund of a hearing fee for a new FM radio station at Essex, New York - Granted (August 20, 1992).

NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE PREPARER, CLAUDETTE E. PRIDE, CHIEF, FEE SECTION ON (202)6320241.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

AUG 10 1992

Denise B. Moline, Esq.
Allen, Moline & Harold
10500 Battlevue Parkway
P.O. Box 2126
Suite 200
Manassas, Virginia 22110

92-50 /

Dear Ms. Moline:

This is in response to your request for refund of hearing fee submitted on behalf of Clemson Broadcasting, Inc. (CBI), former applicant for a new FM radio broadcast station at Clemson, South Carolina.

You state that CBI tendered a hearing fee in the amount of \$6,760. You also state that CBI participated in a Joint Request for Approval of Settlement Agreement which was filed by the Notice of Appearance deadline. You relate that under the terms of this agreement CBI agreed to dismiss its application in return for participation of CBI's principals as shareholders in a merged entity with another applicant. This merged entity would then be the sole surviving applicant, resulting in universal settlement of the Clemson proceeding. However, pursuant to Memorandum Opinion and Order, FCC 92M-651, released June 9, 1992, the original agreement was amended, resulting in settlement of the Clemson proceeding and dismissal of CBI's application for reimbursement of expenses. You now seek refund of CBI's hearing fee.

Section 1.1111(b)(4) of the Commission's rules provides for refund of the hearing fee in cases where a settlement agreement, filed by the Notice of Appearance deadline, provides for the dismissal of all but one of the applicants and the surviving application is immediately grantable or if matters specified in the designation order can be deleted. 47 C.F.R. § 1.1111(b)(4). Because the original agreement was filed in a timely fashion, we conclude that the requirements of the rule have been satisfied. Although the Settlement Agreement in this instance was amended after the Notice of Appearance deadline, both the original and amended agreement provided for dismissal of CBI's application and universal settlement of the subject proceeding. Finally, as you point out in your request, only the form of CBI's consideration has changed.

Denise B. Moline, Esq.

2.

Accordingly, a check for \$6,760, payable to the maker of the original check, will be forwarded to you at the earliest practicable time. If you have any questions about this refund, please call Chief, Fee Section at (202) 632-0241.

Sincerely,



Marilyn J. McDermott
Associate Managing Director
for Operations

ALLEN, MOLINE & HAROLD

ROBERT G. ALLEN
DENISE B. MOLINE
DOUGLAS W. HAROLD, JR.
ROBERT L. GALBREATH

LLOYD D. YOUNG
OF COUNSEL

SUITE 200
10500 BATTLEVIEW PARKWAY
POST OFFICE BOX 2126
MANASSAS, VIRGINIA 22110
(703) 361-2278
FAX (703) 361-0594

SUITE 200
2000 L STREET, N.W.
WASHINGTON, D.C. 20036

5413 MAIN STREET
STEPHENS CITY, VIRGINIA 22655

June 26, 1992

Douglas Cooper, Esq.
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 625
Washington, D.C. 20554

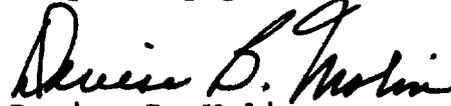
Re: Request for Refund of Hearing Fee
Clemson Broadcasting, Inc.
MM Docket No. 92-50
AM&H #15120

Dear Mr. Cooper:

Pursuant to our conversation earlier this week, and your request, I am enclosing a copy of Clemson Broadcasting, Inc.'s Request for Refund of Hearing Fee.

Thank you for your attention to this matter, and your kind assistance.

Very truly yours,


Denise B. Moline

DBM:wp
Enclosure

Doug

9107178170290006

ALLEN, MOLINE & HAROLD

ROBERT G. ALLEN
DENISE B. MOLINE
DOUGLAS W. HAROLD, JR.
ROBERT L. GALBREATH

LLOYD D. YOUNG
OF COUNSEL

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STEPHENS CITY, VIRGINIA 22655

RECEIVED

JUN 26 1992

June 26, 1992 Federal Communications Commission
Office of the Secretary

RECEIVED

JUN 26 1992

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

WRD

Re: MM Docket No. 92-50
Clemson, South Carolina
M&A #15120

Dear Ms. Searcy:

On behalf of Clemson Broadcasting, Inc., ("CBI") Applicant in the above-referenced Docket proceeding for a new FM Station at Clemson, South Carolina, there is transmitted herewith a Request for Refund of Hearing Fee.

Should there be any question regarding the attached Request, please contact the undersigned.

Very truly yours,

Denise B. Moline

Denise B. Moline

DBM:wp
Attachment

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In re Applications of)	MM DOCKET NO. 92-50
)	
GOLDEN CORNERS BROADCASTING, INC.)	FILE NO. BPH-901218MH
)	
FISHER COMMUNICATIONS OF)	FILE NO. BPH-901219MB
CLEMSON, INC.)	
)	
CLEMSON BROADCASTING, INC.)	FILE NO. BPH-901219MD
)	
)	
For Construction Permit for a)	
New FM Station on Channel 285A)	
Clemson, South Carolina)	

RECEIVED

JUN 26 1992

To: Managing Director

Federal Communications Commission
Office of the Secretary

REQUEST FOR REFUND OF HEARING FEE

Clemson Broadcasting, Inc. ("CBI") by Counsel, and pursuant to §1.1111(c)(4) of the Commission's Rules, hereby respectfully requests refund of its Hearing Fee of \$6,760.¹ In support whereof, the following is shown:

The Parties in the above-referenced proceeding timely filed a Joint Request for Approval of Settlement Agreement on May 4, 1992, the date for Notices of Appearance in the above-captioned proceeding. Under the original Settlement Agreement, CBI agreed to dismiss its application in return for the participation of CBI's principals as shareholders in a merged entity with Golden Corners Broadcasting, Inc. ("GCBI"), which entity would be substituted for GCBI as the sole surviving applicant in a universal settlement of

¹Confirmation of payment of CBI's hearing fee appears in the Commission's Public Notice, FM Broadcast Applicants Submitting Hearing Fee Payments Under New Rules, Released July 25, 1991.

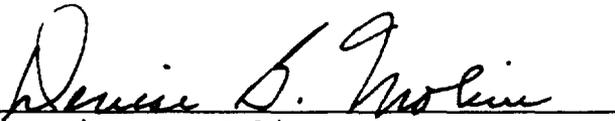
the proceeding. Fisher Communications of Clemson, Inc. ("Fisher") agreed to dismiss its application in return for reimbursement of its expenses.

The Settlement Agreement was later renegotiated, pursuant to a Memorandum Opinion and Order, FCC 92M-651 (Released June 9, 1992) issued by the Presiding Judge regarding grant of the Settlement Agreement. A Joint Amendment to the Joint Petition for Approval of Settlement Agreement was submitted on June 26, 1992, proposing that both CBI and Fisher dismiss their respective applications in return for reimbursement of their expenses by GCBI, and that GCBI remain as the sole surviving applicant, and be granted the construction permit, instead of the merged entity. The original Settlement Agreement was amended to accommodate the parties' changed intentions.

Thus, under §1.111(c)(4) of the Commission's Rules, CBI is entitled to a refund of its Hearing Fee. CBI participated in a timely-filed Settlement Agreement, and has agreed from the outset to dismiss its application. Only the form of CBI's consideration has changed. The requirements of the Rule have been met.

WHEREFORE, in view of the foregoing, CBI respectfully requests that the Commission refund CBI's Hearing Fee. The Hearing Fee refund should be sent to the undersigned Counsel for CBI.

Respectfully submitted,

By: 
Denise B. Moline
Its Attorney

Allen, Moline & Harold
10500 Battleview Parkway, Suite 200
P.O. Box 2126
Manassas, VA 22110

(703) 361-2278

June 26, 1992

CERTIFICATE OF SERVICE

I, Constance E. Carreiro of the Law Firm of Allen, Moline & Harold, do hereby certify that I have caused to be served, this 26th day of June, 1992, by First-class mail, postage prepaid, a copy of the foregoing "Request for Refund of Hearing Fee" on the following:

* Andrew S. Fishel, Managing Director
Federal Communications Commission
1919 M Street, N.W., Room 852
Washington, D.C. 20554

* Honorable Walter C. Miller
Administrative Law Judge
Federal Communications Commission
2000 L Street, N.W., Suite 213
Washington, D.C. 20554

* Paulette Laden, Esq.
Hearing Branch
Federal Communications Commission
2025 M Street, N.W., Room 7212
Washington, D.C. 20554
Counsel for the Mass Media Bureau

Barbara L. (Pixie) Waite, Esq.
Benable, Baetjer, Howard & Civiletti
1201 New York Avenue, N.W., Suite 1000
Washington, D.C. 20005-3917
Counsel for Golden Corners Broadcasting, Inc.

Gary S. Smithwick, Esq.
Smithwick & Belendiuk, P.C.
1990 M Street, N.W., Suite 510
Washington, D.C. 20036
Counsel for Fisher Communications of Clemson, Inc.



Constance E. Carreiro

*Courtesy Copy-Hand Delivered